

THE CHAIRMAN: Delegate Hargrove.

DELEGATE HARGROVE: One other question. Within the last year, has your Committee determined how many investigations, say in Baltimore City again, the grand jury has made during the year? I do not mean trips, I mean actual investigations it has made of any matter.

DELEGATE KIEFER: I do not understand your question. I said to you first, and I will say to you again that we did not check statistics on this. We were concerned with personal rights, protecting an individual in a criminal matter. We talked to people, including States Attorney Moylan, and based upon the various findings that we made we recommended this be continued in the constitution. We did not try to support it with statistical information as to how it was used. It was our understanding that it has been used universally in the State of Maryland in all cases involving felony.

Now, whether it is used by someone not going to the grand jury, or whatever, we did not get into. I just do not know.

THE CHAIRMAN: Are there any other questions of the Committee Chairman? The Chair hears none.

Delegate Kiefer, we will move to consideration of section 13.

DELEGATE KIEFER: Section 13 —

THE CHAIRMAN: Just a second. Delegate Bothe.

DELEGATE BOTHE: I would like to explain an answer if I may, because the question was asked both of State's Attorney Moylan and of Mr. Welch, who is President of the Grand Jurors Association, what number of indictments were denied by the grand juries. Both answered that it was apparently a rare occurrence for the grand jury to refuse to return indictments requested by the state's attorney, although they gave us no exact statistics.

THE CHAIRMAN: Did you say a relatively rare occurrence?

DELEGATE BOTHE: Rare.

THE CHAIRMAN: Very well, section 13.

DELEGATE KIEFER: Section 13 reads as follows, and this was adopted by this Committee, 88 in favor, 17 against, 37 not voting. This is an exact duplicate of the present Constitution: "No person shall be imprisoned for debt. A valid decree of a court of competent jurisdiction or agree-

ment approved by decree of such court for support of a wife or dependent children, or for support of an illegitimate child or children, or for alimony, shall not constitute a debt within the meaning of this section."

Now, ladies and gentlemen, when this Recommendation 2 was originally reported to this Committee, the work was divided among three or four people, and because of some mix-up this section was apparently not properly or thoroughly discussed from the point of view of some individuals here, though apparently it was gone into enough so that it was overwhelmingly accepted.

Let me explain to you what the situation is from a legal point of view in this connection.

First, until the Constitution of 1867 or 1854, there was no prohibition against imprisonment for debt, and there was imprisonment for debt in the State of Maryland. After this provision was applied or put into the Constitution, it simply read, "No person shall be imprisoned for debt."

Now, as many of you lawyers know, or all of you know, of course, many of our divorce proceedings are handled in part by a formal agreement or arrangement between the husband and wife, a written agreement with respect to alimony, custody of children, support of children, and so forth. This agreement is incorporated in the decree, and is enforceable by the courts.

Now, there were early decisions which held that in situations involving an agreement between husband and wife and incorporated in a divorce proceeding by decree, when the terms of that agreement were not carried out by the husband, a court could not hold him in contempt and imprison him because the obligation was held by the Court of Appeals to be a debt and not a duty.

Now, remember, if a wife in open court is awarded alimony by the judge and the husband refuses to pay it at a later time, this is a duty and not a debt, and the man can be imprisoned for contempt of court. In these other cases, which form a considerable part of the practice of domestic relations, they could not.

To meet this situation, the legislature recommended and the State of Maryland adopted back in 1952 additional constitutional language which said: "A valid decree of a court of competent jurisdiction or agreement approved by decree of such court for support of a wife or dependent